

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5734 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? -
2. To be referred to the Reporter or not? -



3. Whether Their Lordships wish to see the fair copy of the judgement? -
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution

of India, 1950 of any Order made thereunder? -

5. Whether it is to be circulated to the Civil Judge?

R. M. SHARMA

Versus

STATE OF GUJARAT

Appearance:

MR BS PATEL for Petitioner

MR BY MANKAD for Respondent No. 1

NOTICE SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 02/02/99

ORAL JUDGEMENT

The list has been revised. None appeared on behalf of the petitioner to press this petition.

2. I have gone through the papers. It is mentioned in paragraphs no. 4 and 11 of the petition that the petitioner has challenged the erroneous reckoning of his seniority in Gujarat Development Service Class-II and the petitioner has also made representation to the Government that even in the provisional seniority list dated 31-1-1984 his seniority has not been correctly computed. This petition has been filed challenging the notification dated 14-11-1984 whereby some juniors to the petitioner have been promoted.

3. An affidavit-in-reply has been filed by the Under Secretary, Panchayats, Rural Housing and Rural Development Department, wherein it is stated that at the time of consideration by the DPC, the departmental inquiry was pending against the petitioner and hence the decision of the Committee was kept in a sealed cover. The petitioner was awarded censure entry. The Tribunal exonerated him and set aside the censure entry vide order dated 18-10-1986. The procedure to open the sealed cover was not followed and the request of the petitioner for deemed date is under consideration of the Government. Vide circular dated 31-1-1984 the provisional seniority list was published and at that time the objections were invited from the concerned officers. After taking into objections received from the concerned officers, the Government has finalized the seniority list vide Circular dated 20-4-1990. The petitioner could have produced

evidence in his objections. But he has not done so. The petitioner came to be promoted by the order dated 2-4-1986 and his request for deemed date is also under consideration of the Government.

4. In the facts and circumstances of the case, I do not find any good ground calling for interference by this Court in this petition. Accordingly, this petition is dismissed. Rule is discharged, with no order as to costs. Interim order, if any, stands vacated.

5. Before signing of the judgment, learned counsel for the petitioner appeared and submitted that the petitioner has already been promoted vide order dated 2-4-1986 as mentioned in para 7 of the affidavit-in-reply. Therefore, the petition in respect of the prayer of promotion has become infructuous. Now, the question is in respect of the deemed date for the said promotion. It is also stated in the affidavit-in-reply that the deemed date is under consideration of the Government. In the facts and circumstances of the case, the respondent no. 1 State of Gujarat is directed to decide the deemed date of the petitioner's promotion, if it has not been decided, within a period of two months from the date of production of a certified copy of this order. With the aforesaid direction, this petition stands disposed of. Rule is made absolute to the aforesaid extent, with no order as to costs. Interim order, if any stands vacated.

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/JVSatwara/